

**NOTICE AND AGENDA
TOWN COUNCIL WATER DISTRICT
REGULAR MEETING**

Public Notice is given that the Apple Valley Town Council, Apple Valley, Washington County, Utah will hold a **Town Council Water Meeting on Wednesday, June 12, 2019** at the **Apple Valley Town Hall**, 1777 N. Meadowlark Dr., Apple Valley, Utah, commencing at **7:00 PM** or immediately following the scheduled Town Council Meeting. In accordance with state statute, one or more council members may be connected via speakerphone.

Call to Order/Pledge of Allegiance/Roll Call

Discussion and Action

- [A.](#) Water District Budget
- [B.](#) Jepson Canyon Water Agreement

Approval of Minutes

- [C.](#) Minutes for 3.20.2019
- Minutes for 4.17.2019
- Minutes for 4.24.2019

Adjournment

Interested persons are encouraged to attend public hearings or present their views in writing at least one day prior to the meeting.

CERTIFICATE OF POSTING: I, Michelle Kinney, as duly appointed Recorder for the Town of Apple Valley, hereby certify that this notice was posted on the Utah Public Meeting Notice website <http://pmn.utah.gov> and the Town Website www.applevalleyut.gov on the **10th day of June, 2019**.

Dated this 10th day of June, 2019

Michelle Kinney, Recorder
Town of Apple Valley

THE PUBLIC IS INVITED TO ATTEND ALL SSD BOARD MEETINGS

In compliance with the American with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify the town at 435-877-1190.

Item Attachment Documents:

A. Water District Budget

Big Plains Water & Sewer Special Service District

	FY18 Actual	FY18 YTD Actual	FY19 YTD Actual	FY19 Estimate	FY19 Budget	FY20 Budget
Income or Expense						
Income From Operations:						
Operating income						
5140 Water Sales	185,729	128,693	128,148	184,048	189,462	186,048
5150 Water Standby Fees	37,998	12,433	27,927	36,714	39,500	32,886
5310 Connection Fees	21,650	13,090	30,288	35,288	50,000	65,000
5410 Late Penalties and Fees	19,310	-	5,257	5,257	30,000	5,000
5490 Other Operating Income	22,594	14,511	26,585	34,585	15,000	12,000
Total Operating income	287,281	168,727	218,206	295,893	323,962	300,934
 Operating expense						
6010 Clerical Contractor Labor	20,407	14,472	-	-	20,557	-
6011 Town Payroll Services	45,369	30,143	430	430	-	-
6013 Water Salaries and Wages	866	-	32,889	43,275	45,000	45,000
6014 Water Benefits	226	-	18,678	24,279	27,841	26,193
6015 Admin Salaries and Wages	-	-	23,705	23,705	-	-
6016 Admin Benefits	-	-	12,831	12,831	-	-
6021 Public Postings	787	678	807	857	600	675
6023 Travel/Fuel	3,100	1,784	496	760	1,500	1,500
6024 Training	-	-	295	295	500	300
6025 Books/Subscriptions/Memberships	-	-	869	869	200	750
6030 Office Supplies and Expenses	4,893	4,305	5,779	7,127	3,300	3,500
6032 Postage	412	-	908	908	1,182	-
6035 Bank Service Charges	68	53	1,880	1,880	20	-
6036 Bad Debt	-	-	-	-	-	-
6040 Professional Service	35,821	34,631	4,540	4,940	5,000	5,000
6043 Accounting & Audit Fees	4,473	1,625	6,611	6,611	4,000	6,000
6044 Water Testing	1,241	1,001	3,170	3,470	2,500	4,000
6045 Legal Fees	11,410	5,874	5,371	5,371	16,700	10,000
6050 System Maintenance and Repairs	7,372	6,707	3,249	3,249	8,500	7,000
6051 System Equipment	4,034	1,873	8,427	10,702	8,580	9,000
6052 Well Maintenance and Repairs	877	107	3,572	3,572	3,263	2,500
6053 Tank Maintenance and Repairs	4,400	4,400	3,500	3,500	747	5,750
6060 Equipment Maintenance	73	-	2,979	2,979	2,000	3,000
6061 Equipment Fuel	-	-	1,797	2,067	3,500	2,500
6067 Utilities	15,538	11,856	8,208	13,508	20,832	15,000
6068 Telephone & Internet	1,271	1,036	553	553	1,250	-
6070 Insurance	4,241	4,241	4,644	4,644	5,100	5,000
6095 Depreciation Expense	117,195	87,384	100,491	134,013	116,800	135,000
Total Operating expense	284,072	212,169	256,678	316,395	299,472	287,668
 Total Income From Operations:	3,209	(43,442)	(38,472)	(20,502)	24,490	13,267

Non-Operating Items:**Non-operating income**

5510 Grants	243,125	-	38,000	38,000	-	-
5515 Bond Proceeds	-	-	-	-	-	-
5520 Impact Fees	36,000	15,000	93,000	108,000	212,500	234,000
5610 Interest Income	1,710	18	2,371	3,013	200	2,400
5680 Contributed Capital Revenue	-	-	-	-	-	-
5690 Sundry Revenue	-	-	-	-	-	-
5700 Gain or Loss on Plant Retirement	-	-	-	-	-	-
Total Non-operating income	280,835	15,018	133,371	149,013	212,700	236,400

Non-operating expense

6080 Interest Expense	92,730	69,344	68,340	94,631	94,599	93,282
Total Non-operating expense	92,730	69,344	68,340	94,631	94,599	93,282

Total Non-Operating Items:	188,106	(54,326)	65,030	54,382	118,101	143,118
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Total Income or Expense	191,315	(97,769)	26,559	33,881	142,591	156,385
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Item Attachment Documents:

B. Jepson Canyon Water Agreement

When recorded, mail to:

Little Creek Land Company, LLC
Attn: Hank Isaksen
P.O. Box 1026
St. George, UT 84771

Tax Parcels:

AV-1337-A-1-A-1-A; AV-
1340; AV-1341; AV-1347;
AV-1352; AV-1353; AV-1338-
A-1; and AV-1338-A-2

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WATER AND SEWER AGREEMENT

This Water and Sewer Agreement (this “**Agreement**”) is made and entered into as of the ____ day of _____, 2019 (the “**Effective Date**”), by and between BIG PLAINS WATER AND SEWER SPECIAL SERVICE DISTRICT, (the “**SSD**”) and LITTLE CREEK LAND COMPANY, LLC, a Utah limited liability company (“**LCLC**”) and JEPSON CANYON RESORT DEVELOPMENT CO., INC., a Utah corporation (“**JCRDC**”) (LCLC and JCRDC collectively referred to herein as “**Developer**”). The SSD and Developer may each be referred to herein as a “**Party**” or collectively as the “**Parties**”

RECITALS

WHEREAS, Developer owns approximately 313 acres of real property located within the municipal boundaries of the Town of Apple Valley (the “**Town**”), Washington County, State of Utah as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the “**Property**”).

WHEREAS, Developer plans to develop the Property in multiple phases into a boutique destination resort comprised of a variety of residential building lots in gated neighborhoods, golf course, science center with observatory, Native American cultural center, commercial and/or retail sites, and a lodge with restaurant, conference space, dwelling units owned in fractional interests and related amenities, (the “**Project**”); and

WHEREAS, the SSD owns and operates the water distribution system in the vicinity of the Property; and

WHEREAS, Developer and the SSD desire to enter into this Agreement in order to set forth their respective rights and covenants related to sewer and water infrastructure and the provision of related services to the Project; and

NOW, THEREFORE, in consideration of the recitals and mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1.00 MASTER PLAN: Developer intends to develop the Property in accordance with the master plan (the “**Master Plan**”) attached hereto as Exhibit B and incorporated herein by reference. The Master Plan locates roads, neighborhoods, and various uses that Developer intends to incorporate into the Project. The total number of residential dwelling units in the Project (not including lodge/hotel units) is 354. Developer’s intended uses (the “**Intended Uses**”) include the following:

Use		Acres
1. Golf Course and Water Features		35.0
2. Highway Commercial, which may include grocery, pharmacy/drug store, gas station, convenience store, restaurants and other retail uses. This area will also initially be the site of a 2 and ½ story temporary metal building (see detail below in the Bronze Stagecoach description).		8.1
3. Village of Many Nations (Native American cultural center with displays from various tribes, a pond for canoes, restroom and shower facilities and bus parking. Guests will have the opportunity to stay overnight in tepees and possibly other Native American dwellings)		13.3
4. Southwest Science Center (will include Planetarium/Theater with approximately 250 seats, Challenger Learning Center, children’s discovery center, amphitheater, and geology museum. A tram will be constructed connecting the science center with the bronze stage coach and observatory complex on top of the cliff.)		22.8
5. Bronze Stagecoach (will be the “world’s largest bronze stagecoach” at 120’ long and 22’ tall and will take approximately 3 years to construct. Construction will take place in a 2 and ½ story temporary metal building to be located in the Highway Commercial area and when each piece is completed it will be airlifted by helicopter up to cliff top location shown on the Master Plan. Visitors may be charged admission to view the construction process and the final product. Following completion of the construction of the Bronze Stagecoach, the temporary metal building will be removed from the Highway Commercial area and reassembled next to the final location of the Bronze Stagecoach where it will serve as a “renaissance center” where artists will be able to produce and display different forms of visual arts.		14.3
6. Water Tank with up to a one-million-gallon capacity (See Section 3.01). Water from this tank will power a hydro-electric turbine located below the water tank. The turbine will be enclosed by plexiglass to permit visitors to see how hydro-electric power is generated.		1.0
7. Observatory Complex (guests will have the chance to view objects in space through high-powered telescopes. Telescope images may also be broadcast to the science theater and other connected locations.)		3.9
8. 180 Room Lodge with spa, restaurant and golf shop (Developer plans to sell fractional interests in the lodge in three-week intervals and the lodge manager may rent rooms on a nightly basis when not in use by fractional owners.)		8.8
9. High Density Housing (residential building lots with an average lot size		49.75

below .30 acres. May include “patio homes” which means only the building footprint is sold and the remainder of the neighborhood is owned in common and maintained by a homeowner’s association)		
10. Medium Density Housing (residential building lots with an average lot size between .30 acres and .50 acres. May included “patio homes”.)		26.5
11. Low Density Housing (residential building lots with an average lot size between .68 acres and .76 acres.)		39.54
12. “Foothills” Low-Density Housing (residential building lots located at base of cliff with average lot size of .54 acres.)		10.44
13. “Cliff Top Estates” (premium residential building lots located on top of cliff with average lot size of 4.4 acres.)		21.7
14. Roads		14.02
15. Open Space, which shall include a 4.0-acre neighborhood park to be dedicated to the Town.		43.85
Total		313.0

2.00 ASSURANCE OF WATER AVAILABILITY: The SSD anticipates that the Project as described in the Master Plan will require 360 acre feet of water rights. The SSD represents and warrants that (i) it owns, or has a legally binding option to acquire, sufficient water rights to make available to Developer for purchase the water rights needed for the Intended Uses, (ii) water lines and related infrastructure are in place, or will be installed prior to completion of the Water Facilities (defined below), to ensure delivery of water to the Property in the capacity needed for the Intended Uses. The SSD agrees to sell water rights to Developer, up to the amount required for the Intended Uses, at an amount not to exceed \$4,000.00 per acre foot.

3.00 WATER AND SEWER INFRASTRUCTURE: The following infrastructure improvements shall be made in connection with the development of the Project and may be completed in phases.

3.01 **Water Facilities.** During the first phase of the Project, Developer shall design and construct, at Developer's expense, a temporary water tank (the “**Temporary Water Tank**”), to service the Project until completion of the Permanent Water Tank. The size and location of the Temporary Water Tank shall be mutually agreed by Developer and the SSD. Developer shall also design and construct, at Developer’s expense, a water tank with up to a one million gallon capacity to be located on a one acre site on the southern edge of the Property, as depicted in the Master Plan (the “**Permanent Water Tank**”). The timing for completion and the required capacity of the Permanent Water Tank shall be mutually agreed by Developer and the SSD. Developer shall also design and construct, at Developer’s expense, a water line connecting the Permanent Water Tank to the SSD’s existing water line along State Highway 59, together with such valves, air vac stations, fire hydrants, blow off valves, flow meter and other appurtenances that may be required to connect all residential and commercial buildings in the Project to the SSD’s existing water line along State Highway 59 (the “**Internal Water Connections**”, referred to collectively with the Permanent Water Tank as the “**Water Facilities**”). All Water Facilities shall be designed and constructed in accordance with the SSD’s engineering standards at the time of construction. If the SSD requires the Permanent Water Tank to have a capacity in excess of what is needed to service the Project, the SSD shall provide Developer a credit against impact fees applicable to the Project in an amount equal to the difference in cost between constructing a water tank with the minimum capacity required to service the Project and the cost of constructing a water tank with the capacity required

by the SSD. Such cost difference shall be determined in a manner mutually agreeable to Developer and the SSD.

3.02 **Sewer.** Developer shall design and construct, at Developer's expense, a comprehensive sewer system (the "**Sewer System**") to accommodate and treat all Project sewage. The Sewer System shall be designed and constructed in accordance with the SSD's generally applicable engineering standards at the time of construction and final plans therefor shall be subject to the SSD engineer's review and approval. In addition, the Sewer System shall be in conformance with applicable law, including the requirements of the Department of Environmental Quality ("**DEQ**"). The Sewer System may be installed in phases, provided the Sewer System has sufficient capacity at all times to cover existing build out at the Project.

3.03 **Dedication.** Provided construction is completed in a good and workman-like manner and in accordance with the Town's generally applicable engineering standards, Developer shall dedicate to the SSD and the SSD shall accept: (i) the Water Facilities, and the Water Tank, including the tract of land on which the Water Tank is installed, and (ii) the Sewer System, including the land on which the sewer treatment facility is located, if such land is owned by Developer (the "**Dedicated Infrastructure**"). Dedication of the Dedicated Infrastructure shall occur one year after construction of the Dedicated Infrastructure is completed. Following dedication thereof, the SSD and the Town shall be responsible for the operation and maintenance of the Dedicated Infrastructure. Developer shall also grant such easements as may be necessary for the SSD and the Town to maintain the Dedicated Infrastructure. Following dedication of the Sewer System, the SSD shall ensure that adequate sanitation services are provided to the Project.

4.00 ~~**TERM:** This Agreement shall have an initial term of thirty (30) years from the Effective Date. This Agreement may be extended by the mutual written agreement of both parties.~~ **Intentionally Omitted.**

5.00 **AGREEMENT TO RUN WITH THE LAND:** Developer shall have the right to record this Agreement or a memorandum thereof and any extensions or amendments thereto in the Official Records of Washington County, State of Utah. This Agreement shall be deemed to run with the Property and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Property. Notwithstanding the foregoing, upon the sale of a subdivided and developed unit or lot to a third party, such unit or lot shall be released from and no longer burdened by the provisions of this Agreement.

6.00 **ASSIGNMENT:** Developer shall have the right to assign its interest under this Agreement to a third party, provided such third party executes an agreement acknowledging that such third party agrees to assume Developer's obligations under this Agreement and a copy of such agreement is delivered to the SSD and the Town.

7.00 MISCELLANEOUS:

7.01 **Recitals Incorporated.** The recitals to this Agreement are incorporated herein and made a part of this Agreement as if set forth in their entirety herein.

7.02 **Time for Performance.** Time is of the essence of this Agreement

- 7.03 Entire Agreement. This Agreement is the entire agreement between the Parties, and there are no oral or other written agreements or representations directly or indirectly connected with this Agreement.
- 7.04 Applicable Law; Venue. This Agreement shall be construed under the laws of the State Utah, without regard to conflicts of law provisions. The venue for any legal proceeding shall be in the 5th District Court of the State of Utah or the Federal Court for the District of Utah.
- 7.05 Counterparts. This Agreement may be executed in any number of identical counterparts, or with multiple signature pages which, when assembled as a single document or, if not so assembled, when taken together shall be deemed to be fully effective and operative as an original document; provided, however, that in making proof of this Agreement, it shall not be necessary for any Party hereto to produce or account for more than one such counterpart.
- 7.06 Severability. In the event any provision of this Agreement is deemed invalid, illegal or unenforceable, the remainder of the Agreement shall be valid and enforceable.
- 7.07 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns.
- 7.08 Construction of this Agreement. The Parties acknowledge and agree that counsel has represented them and that each of the Parties has participated in the drafting of this Agreement. Accordingly, it is the intention and agreement of the Parties that the language, terms and conditions of this Agreement are not to be construed in any way against or in favor of any Party hereto because of the responsibilities in connection with the preparation of this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the dates hereafter set forth by their duly authorized officers.

THE SSD:

~~[SSD SIGNATURE BLOCK]~~

BIG PLAINS WATER AND SEWER SPECIAL
SERVICE DISTRICT

By: _____
Name: _____
Title: _____

STATE OF UTAH)
) ss.
COUNTY OF WASHINGTON)

On this ____ day of _____, 2019, before me personally _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is signed on the preceding document, and acknowledged before me that he signed it voluntarily for its stated purpose.

NOTARY PUBLIC

[SIGNATURES CONTINUE ON NEXT PAGE]

LITTLE CREEK LAND COMPANY, LLC

By: _____
Henry Isaksen, Jr. President

On this ____ day of _____, 2019, before me personally appeared Henry Isaksen, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is signed on the preceding document, and acknowledged before me that he signed it voluntarily for its stated purpose.

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EXHIBIT A

Legal Description

EXHIBIT B

Master Plan

Item Attachment Documents:

- C. Minutes for 3.20.2019
- Minutes for 4.17.2019
- Minutes for 4.24.2019

OPENING

Mayor Lisonbee brought the meeting to order at 7:38 p.m. welcoming all in attendance and led the Pledge of Allegiance.

PRESENT

Mayor Marty Lisonbee
Councilmember Debbie Kopp
Councilmember Denny Bass

Town Recorder Michelle Kinney

EXCUSED

Councilmember Paul Edwardsen
Councilmember Michael McLaughlin

MOTION:	Mayor Lisonbee motions that item A, B, C, D, are tabled until the next meeting.	
SECOND:	Councilmember Bass	
VOTE:	Councilmember Kopp -	Aye
	Councilmember Denny Bass-	Aye
	Mayor Lisonbee –	Aye

The vote was unanimous and the motion carried.

- A. Financial State of the District Report
- B. RCAC Board Training Meeting Notes
- C. Gooseberry Mesa and Water District Agreement
- D. Approval of Minutes

ADJOURNMENT

MOTION:	Councilmember Kopp motions that they adjourn tonight's meeting of the Water District Town Council meeting.	
SECOND:	Councilmember Mayor Lisonbee	
VOTE:	Councilmember Kopp -	Aye
	Councilmember Bass-	Aye
	Mayor Lisonbee –	Aye

The vote was unanimous and the motion carried.

Date approved: _____

Marty Lisonbee, Mayor

ATTEST BY: _____
Michelle Kinney, Recorder

OPENING

Mayor Lisonbee brought the meeting to order at 7:38 p.m. welcoming all in attendance and led the Pledge of Allegiance.

PRESENT

Mayor Marty Lisonbee
Councilmember Debbie Kopp
Councilmember Denny Bass
Councilmember Paul Edwardsen
Councilmember Michael McLaughlin

Town Recorder Michelle Kinney

FINANCIAL STATE OF THE DISTRICT

Ben talks about the reliance of the district on impact fees. Ben has met with three different people to discuss how districts are financially structured. Each of these individuals indicated that base rates should pay for operation costs and debt service. Impact fees should be used for capital improvement.

On May 1st the district needs to make the Canaan payment.

The District needs about 100-150 more homes for our base rate to cover operating costs.

RCAC BOARD TRAINING MEETING NOTES

Mayor Lisonbee mentions a meeting in Richfield and how our base rate should cover our expenses.

Councilmember Bass mentions the District is one of the highest for impact fees in the state next to Park City.

Harold Merritt mentions that Canaan Springs came available to the district at a very inopportune time. The question is asked if the District should start charging a convenience fee when residents and builders use credit cards to pay fees. Currently the district/ town pays this fee.

GOOSEBERRY MESA AND WATER DISTRICT AGREEMENT

Harold Merritt asks Dale where the meters for this project should be placed. Dale Harris feels that main lines should always be district property so the district is able to maintain the line and make sure the water is safe. Dale is concerned about cross-connections or illegal taps on lines.

Each one acre foot of water is allowed 325,000 gallons of water per year. If people are using additional water they should be paying an additional amount for this. We may

need to add something to our fee schedule to cover additional cost for over usage of water.

APPROVAL OF MINUTES

MOTION: Councilmember Edwardsen moves to approve the minutes for 1.16.2019 and 2.22.2019.

SECOND: Councilmember Bass

VOTE:	Councilmember Kopp –	Aye
	Councilmember Denny Bass-	Aye
	Councilmember McLaughlin	Aye
	Councilmember Edwardsen	Aye
	Mayor Lisonbee –	Aye

The vote was unanimous and the motion carried.

ADJOURNMENT

MOTION: Councilmember Kopp motions to adjourn the Town Council Water District Oversight meeting.

SECOND: Councilmember Bass

VOTE:	Councilmember Kopp -	Aye
	Councilmember Bass-	Aye
	Councilmember McLaughlin	Aye
	Councilmember Edwardsen	Aye
	Mayor Lisonbee –	Aye

The vote was unanimous and the motion carried.

Meeting Closed at 7:42

Date approved: _____

Marty Lisonbee, Mayor

ATTEST BY: _____
Michelle Kinney, Recorder

OPENING

Mayor Lisonbee brought the meeting to order at 5:03 p.m. welcoming all in attendance.

PRESENT

Mayor Marty Lisonbee
Councilmember Debbie Kopp
Councilmember Denny Bass
Councilmember Michael McLaughlin

Town Recorder Michelle Kinney

ABSENT

Councilmember Paul Edwardsen

CONFLICT OF INTEREST DECLARATIONS

DISCUSSION AND ACTION

1. BPW Development Agreement; Gooseberry Preserve

Councilmember Bass asks if the \$60,000 deposit is non-refundable. Additional insured should include the town.

Councilmember Kopp mentioned that Ross Gregerson would like to have the word “to” added on page 3, top line, to correct the grammar.

MOTION: Mayor Lisonbee moves to make the grammar change to the agreement and have counsel look at it once more regarding the insurance or if it is already covered in the town’s agreement, he moves to approve.

SECOND: Councilmember Bass

VOTE:	Councilmember Kopp -	Aye
	Councilmember McLaughlin-	Aye
	Councilmember Denny Bass-	Aye
	Mayor Lisonbee –	Aye

The vote was unanimous and the motion carried.

ADJOURNMENT

MOTION: Councilmember Kopp motions to adjourn

SECOND: Councilmember Bass
VOTE: Councilmember Kopp - Aye
Councilmember McLaughlin – Aye
Councilmember Bass- Aye
Mayor Lisonbee – Aye

The vote was unanimous and the motion carried.

Meeting adjourned at 5:09 p.m.

Date approved: _____

Marty Lisonbee, Mayor

ATTEST BY: _____
Michelle Kinney, Recorder